

**RESOLUTION 66 – 2012
RESOLUTION APPROVING LITIGATION
SETTLEMENT AGREEMENT**

WHEREAS, Woodbury Heights Development, LLC heretofore filed a builder's remedy law suit against the Borough and the Planning Board alleging that the Borough had failed to comply with its constitutional obligations pursuant to the "Mt. Laurel" Doctrine as expressed in Southern Burlington County NAACP v. Township of Mt. Laurel, 92 N.J. 158 (1983), the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. and applicable regulations pursuant to the Fair Housing Act; and

WHEREAS, the aforesaid litigation was captioned in the Superior Court as Woodbury Heights Development, LLC v. Borough of Woodbury Heights and the Planning Board of the Borough of Woodbury Heights under Docket No. GLO-L-1750-09; and

WHEREAS, during the course of the litigation, Plaintiff filed a Motion for Summary Judgment that, if granted, may have resulted in a project consisting of 274 or more residential, non-age restricted units; and

WHEREAS, the Borough, Planning Board and Plaintiff engaged in settlement discussions during the pendency of Plaintiff's Motion for Summary Judgment and, as a result of such discussions, the parties have reached an agreement to provide for a less intensive development of the subject property that will still provide for the production of affordable housing to assist the Borough in meeting its affordable housing obligations; and

WHEREAS, the Planning Board has adopted amendments to the "Housing Element and Fair Share Plan" to the Master Plan which is intended to address the Borough's affordable housing obligations under the Mt. Laurel Doctrine; and

WHEREAS, the Litigation Settlement Agreement will limit the number of residential units that may be constructed on Plaintiff's property to a total of 234 or less residential units while providing for at least 14.5% of such units to be restricted as affordable; and

WHEREAS, the Borough has received advice and recommendations from Special Counsel, the Borough Solicitor, Borough Engineer and the Borough Planner with respect to the attached Litigation Settlement Agreement and hereby finds and determines that approval of the Agreement is in the best public interest of the Borough;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights that the attached Litigation Settlement Agreement is hereby approved and authorized subject to and conditioned upon approval of the Court resulting from a "Fairness Hearing."

BOROUGH OF WOODBURY HEIGHTS

By: _____

Harry W. Elton, Jr.
HARRY W. ELTON, JR., MAYOR

ATTEST:

Janet Pizzi

JANET PIZZI, BOROUGH CLERK

The foregoing Resolution was duly adopted by the Borough Council of the Borough of Woodbury Heights at the Regular Meeting held on the 16th day of May, 2012.

Janet Pizzi

JANET PIZZI, BOROUGH CLERK